IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1789 OF 2004

Masanu Dhaklu Gavada .. Petitioner.
Vs.
The State of Maharashtra & Ors. .. Respondents.

ALONGWITH

WRIT PETITION NO.2225 OF 2004

Bharmanna Nilu Gavada .. Petitioner.
Vs.
The State of Maharashtra & Ors. .. Respondents.

Mr.S.M.Sabrad for the petitioners.
Mr.A.P.Palekar AGP for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 28TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Sabrad, learned counsel for the petitioners and Mr.Palekar, learned A.G.P. for the respondents.

2. Rule, returnable forthwith.

3. Mr.Palekar, learned A.G.P. waives service for the respondents. By consent of the parties taken up for final hearing.

4. The petitioners in both the writ petitions have impugned the orders dated 31.5.2001 and 4.12.2003 passed by respondent no.3 rejecting their application filed under section 28A of the Land Acquisition Act, 1894 (for short "the Act"). The order dated 4.12.2003 was passed in the review application filed by them seeking review of the order dated 31.5.2001. The principal grievance made by the petitioners in both the petitions is that respondent no.3 while passing the orders impugned in the present writ petitions did not follow the mandatory provision of sub-section (2) of section 28A of the Act by giving the petitioners reasonable opportunity of being heard before disposing of their application under section 28A of the Act. Section 28A(2) clearly provides that the Collector, shall on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the parties interested and giving them a reasonable opportunity of being heard and make an award determining the amount of compensation payable to the applicants. Mr.Palekar, learned A.G.P. fairly stated that before passing the impugned orders no such hearing was given to the petitioners and, therefore, the matter be remanded to respondent no.2 for deciding

the application dated 29.12.1995 afresh after giving an opportunity of being heard to the petitioners. In the circumstances the impugned orders dated 31.5.2001 and 4.12.2003 in both the petitions are set aside. The matters are remanded to respondent no.3 for deciding the applications dated 29.12.1995 afresh as expeditiously as possible and preferrably within a period of 12 weeks from the date of receipt of this order. The petitioners are directed to communicate this order to the concerned authority within two weeks from today. The petitions are disposed of.

(D.B.Bhosale, J.)